

"dial tone reorigination." This phenomenon occurs when, after one party disconnects (hangs up) from a call, the LEC provides a new dial tone if the second party stays on the line. Dial tone reorigination can enable a caller to bypass the IPP's mechanism for authorizing a call and thereby give the caller free unlimited access to the network. Secondary dial tone reorigination can be addressed at the network level. The LECs acknowledge that they can eliminate or help prevent secondary dial tone reorigination. The Commission should mandate installation of this software by the LECs.¹⁰ IPP providers cannot be held strictly liable for toll charges resulting from this glitch in the system.

Another area where LECs should be required to do more to prevent fraud involves the security of the network interface, which is an important element preventing "clip-on" fraud. The LEC is required to follow "reasonable and non-discriminatory standard operating practices" in defining the "demarcation point" and installing a network interface. 47 CFR § 68.3. However, because the LEC's own payphones are not considered to be "customer premises

¹⁰ The Notice states that the problem of dial tone reorigination "appear[s] to have been resolved by the industry." Id., at ¶ 7. APCC is not aware that any reasonably effective solution has been generally implemented. The attached excerpt from a LEC "private payphone" operator's handbook indicates that network safeguards against dial tone reorigination are far from being generally available. In the absence of network safeguards, IPP providers have resorted to such measures as deadening the key pad, which degrades service quality --- causing customer complaints - - and is far from being foolproof. See BellSouth's Private Payphone Providers Handbook, at 13-1, 13-25 (attached as Attachment A).

equipment" subject to Part 68 rules, and because there are no effective safeguards in place to prevent a LEC from discriminating against its payphone competitors, it has often been difficult for IPP providers to obtain the LECs' cooperation in securing the network interface. The LECs should be required to place the network interface in a secure location.

As APCC discussed earlier, the Toll Fraud Protection Committee has considered a plan for assigning all payphones either an 8000 or a 9000 series number. The Commission should consider this proposal in a public proceeding or refer it to the advisory committee for immediate action. Many international carriers in particular do not perform a BNS check to determine whether a number that is being billed for an international call is assigned to a payphone. Assigning readily identifiable numbers to payphones would make it much simpler to identify payphones and would reduce toll fraud, especially from international calls.

Additional fraud prevention efforts should be required of IXC's as well. All carriers should be required to engage in fraud monitoring as an inherent part of their service. The Commission should rule that carriers have a public obligation to monitor for fraud. As noted above, when carriers were forced to incur liability for calling cards, carriers became vigilant at monitoring access to the networks and developed new programs to detect fraud and alert cardholders immediately to any unauthorized usage. Innovations like these show that the carriers can develop programs

to monitor fraud, which could easily be tailored for use at payphones. A carrier who fails to provide adequate fraud monitoring should not be able to hold a payphone owner liable, even if the payphone owner does not subscribe to blocking and screening services.

When carriers introduce new services, they must be held responsible for any glitches in the service that create new opportunities for fraud. IPP providers cannot be held liable for toll fraud charges arising from services that are unilaterally imposed by carriers without corresponding fraud prevention devices. For instance, APCC understands that AT&T's new automatic conference call service -- by which a conference call can be ordered without presubscription and directly billed to the customer's line -- has resulted in several instances of charges for fraudulent international calls. It is unclear what the precise problem is in this service, but AT&T should be held responsible for these problems until it provides sufficient fraud prevention for the service.

C. Other Issues

The Commission should clearly define a federal policy governing the assignment of liability for toll fraud associated with payphones. The Commission's rule should set out the "reasonable steps" that an IPP provider should take to prevent liability for toll fraud. This rule should make clear that it overrides any inconsistent provisions of carrier tariffs. The

alternative is for the Commission to promulgate a rule requiring each IXC to incorporate into its tariffs language that implements the federal policies. However, requiring carriers to amend their tariff provisions will create an administrative nightmare, requiring the Commission to review and approve each new tariff provision. The Commission should simply adopt a rule setting out the specific steps necessary to insulate an IPP provider from liability. The rule should state that no IPP provider that follows the steps detailed by the Commission -- such as subscription to BNS, OLS, and IDD blocking -- shall be held responsible for any charges resulting from fraudulent calls at that payphone, regardless of any contrary provisions of carrier tariffs.

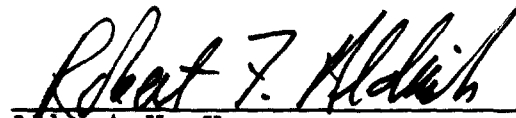
The Notice also asks whether the FCC should attempt to apportion responsibility for fraudulent toll charges between the LECs and IXCs. The Florida rules hold the LEC responsible for fraudulent toll charges that result from a failure of the LEC's screening services, and hold the IXC responsible for fraudulent toll charges that result from the IXC's failure to properly validate calls. This approach is consistent with APCC's views. However, the Commission need not decide whether to adopt Florida's approach to apportioning responsibility between the LECs and IXCs in order to act. Regardless of who ultimately is charged with the costs of fraudulent use of the network, the Commission must rule that when IPPs have purchased services that are designed to prevent

fraudulent calls, they have taken "reasonable steps" to protect themselves and are not liable for fraudulent telephone charges.

CONCLUSION

For the reasons stated herein, the American Public Communications Council respectfully requests that the Federal Communications Commission adopt a federal policy regarding liability for toll fraud establishing that independent public payphone providers who take reasonable steps to prevent fraud be insulated from liability for charges resulting from fraudulent toll calls. The Commission should define reasonable steps such that independent payphone providers who subscribe to network-based services such as originating line screening, billed number screening, and international direct-dial blocking be insulated from liability for calls that result from the failure of those services.

Respectfully submitted,



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Attachment A

Private Payphone Providers Handbook

CHAPTER 13

FRAUD

**Limitations On
The Prevention
Of Secondary
Dial Tone
Reorigination**

Secondary dial tone reorigination is able to occur in CPE coin telephone equipment which is not manufactured according to the specifications for digital switches. These specifications are made available to all set manufacturers through LATA Switching Systems Generic Requirements (LSSGR), a BellCore publication.

BellSouth will deploy, where available, a central office software feature that may assist in the prevention of secondary dial tone reorigination.

THE DEPLOYMENT OF THIS SOFTWARE FEATURE IS NOT INTENDED TO GUARANTEE THE PREVENTION OF SECONDARY DIAL TONE REORIGINATION AND DOES NOT RELIEVE THE CPE PAYPHONE OWNER FROM LIABILITY.

This central office software feature is available for the following central office switches:

- DMS 10 (Generic 401.40 and later)
- DMS 100
- 2B ESS (Generic 2BE4-1.07 and later)
- 1A ESS (Generic 11.06 or later)
- 5E ESS (Generics 5E5 and later)

The following central office switches do not have this feature available:

Stromberg-Carlson*

Seimens

(* The feature in this switch was removed due to its negative impact on other service offerings.)

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Limitations On The
Prevention Of Secondary
Dial Tone Reorigination, continued

Limitations By
Switch Type

In the four switches where the software feature is available, there are limitations to preventing the reorigination of secondary dial tone. The limitations which have been identified at this time (other limitations may also exist) are as follows:

1A ESS

- If the payphone receives a call and the calling party hangs up, dial tone will be returned.
- If the end user terminates a call to a line with Call Forward Don't Answer, served by a DMS switch and the call forwarded number is busy, dial tone will be returned.

5E ESS

- If the payphone receives a call and the calling party hangs up, dial tone will be returned.
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Private Payphone Providers Handbook

**Telephone Number
Line Range
Restriction**

To assist in the prevention of international toll fraud, BST is participating in a nationwide plan which has established a telephone number line range restriction on all Public Access Lines. Whenever possible, telephone numbers with a line number range of 8000 or 9000 will be assigned on new service requests. When a telephone number in this range is not available in the serving NXX(s), any line number range will be assigned.

This restriction will assist Overseas Operators in identifying Public Access Lines and preventing collect and third number calls from being billed to them.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 14th day of January, 1994, I caused a true copy of the Comments of the American Public Communications Council to be served upon the parties listed below.

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